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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,971	09/15/2003	Thomas F. Papallo	138562	1096

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EXAMINER	
WILLOUGHBY, TERRENCE RONIQUE	
ART UNIT	PAPER NUMBER
2836	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/662,971	**Applicant(s)** PAPALLO ET AL.	
	Examiner TERRENCE R. WILLOUGHBY	**Art Unit** 2836	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    See continuation sheet .
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Michael J Sherry/
Supervisory Patent Examiner, Art Unit 2836

Applicant's arguments filed on April 4, 2008 have been fully considered but they are not persuasive.

Applicant argues that Qin does not disclose or suggest that the central unit (i.e. Fig. 1, (20)) performs both "zone protection function" and "instantaneous overprotection". The Examiner will like to point out to the Applicant that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Further, Qin discloses the zone protection function performed by a central control unit (abstract, col. 1, ll. 1-10; col. 3, ll. 57-67 and col. 7, ll. 60 thru col. 8, ll. 1-3). Also, Qin in (Fig. 1) discloses bay units (22-28) which acquire current (emphasis added) and digital input information which sends the acquired information to the central unit (20), which processes that information, and makes the appropriate protection zone selection, as well as run differential protection algorithms and then sends back trip instructions to the associated circuit breakers (i.e. switching devices) in the CT branches (col. 3, ll. 57-67). However, Qin does not explicitly disclose that the acquired current input information used in the protection zone selection performed both by the central control unit (20) (i.e. microprocessor) is an instantaneous overcurrent even though it's hard to imagine a power supply network without overcurrent protection. Most likely this is the reason why Qin does not mention this feature. However, Engel et al. was relied upon for discloses a microprocessor (24) using instantaneous overcurrent protection functions (abstract, ll. 4-8; col. 4, ll. 65-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the control device of Qin (i.e. the control unit (20)) to include instantaneous overcurrent protection as taught by Engel et al. to improve the circuit interrupter's by increasing sensitivity to the monitored current over it's normal operating range.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Engel reference was only relied upon disclosing that microprocessors are well know in the art to perform instantaneous protection (abstract, ll. 4-8; col. 4, ll. 65-67). It is true that Engel et al. does not disclose the zone protection of the switching devices (i.e. circuit breakers). However, there is nothing in the Engel reference which prevents combining the microprocessor in the power system of Qin. Therefore, Engel is not teaching away from Qin. Further, Engel in (Figs. 1-2) discloses a single electronic circuit breaker (10) comprising two separate microprocessors (24, 46) that performs divisional task (i.e. splitting the protection functions) between them, however the two microprocessors are contained as one single electronic circuit breaker. Secondly, the Examiner will like to point out to the Applicant in (Fig. 1) of the Applicant drawings that microprocessor (28) is formed as two microprocessors (i.e. C/CPU1 and C/CPU2). Therefore in any modern microprocessor, microcomputer, or central processing unit (CPU) there includes more than one microprocessor.